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10/748,888	12/30/2003	Delaina A. Allen	86263PAL	7446

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EXAMINER	
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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/748,888
Filing Date: 12-30-03
Appellant(s): ALLEN ET AL.

Paul Leipold
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 3-9-06 appealing from the Office action mailed 6-3-05.

(1) Real Party in Interest

Eastman Kodak Company is the real party of interest.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,494,943	**Yu et al.**	**12-2002**

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-20 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Yu et al (US Patent 6,464,943).

Yu et al teach a colored pigment having one or more parameters and/or properties such as a particle size of from about 10 nm to about 300 nm and a filterability such that when in a liquid medium, 100 ml having 10% solids of the colored pigment filters trough a 3 micron nylon absolute filter (abstract and col. 3 lines 6-25). The pigments that traditionally used in ink compositions including blue, cyan, green, violet magenta pigments such as carbon blacks, phthalocyanine, Pigment Blue 15, Pigment Red 122, Pigment Yellow 74 and Pigment Yellow 128 (col. 3 line 30+) may be used in the composition. The reference states that pigment traditionally used in ink composition may be present in the composition which would also include organic crystalline pigments absence evidence to the contrary. The particle size of the colored pigments, the particle size of the distribution is based on the mean volume diameter of the pigment particles as measured by the dynamic light scattering method. The particle size

distribution range of the colored pigments is from about 10 nm to about 300 nm (col. 4 lines 16-24). The reference further teaches that the colored pigment may be present in the amount of less than or equal to 20 to 25 percent by weight when used in an ink jet ink composition (col. 15 lines 28-30 and col. 16 lines 59-62). In addition, the colored pigment is typically as small as possible to enable a stable colloidal suspension of the pigment in the liquid vehicle and to prevent clogging of the ink channels and nozzles (col. 16 lines 62-65). Additives which are suitable for use in ink or ink jet composition to impart a number of desired properties while maintaining the stability of the composition including surfactants, polymers, humectants, biocides, binders and penetrants may be present the in the amount of 0 to 40 percent by weight (col. 15 lines 36-54). Humectants present in the ink composition include ethylene glycol, diethylene glycol, ethers, ethers derivative and 2-pyrrolidone (col. 15 lines 43-67). The reference further teaches that the ink composition may be aqueous based wherein water is present in the amount of about 50 to about 95 percent by weight (col. 17 lines 7-12). The ink composition may be used ink an ink jet printer, wherein a printhead is used and because the ink composition appears to have the same filterability of the claimed invention it would obviously have a printhead having an orifice size of 25 micrometers for greater than 10 hours. The reference fails to teach the specific steps to calculate the ink composition's filterability. The composition as taught by Yu et al appears to anticipate the claimed invention when the filterability is measured by the same standards that the ink composition of Yu et al would inherently exhibit Applicant's claimed properties in absence evidence to the contrary.

(10) Response to Argument

Applicant's arguments filed 3-9-06 have been fully considered but they are not persuasive.

Applicant argues Yu et al fails to teach all the limitations of the claimed invention, specifically the ink after four passes of the ink through a 1.0 micron filter still has an 80 percent filterability. Applicant also states that Yu et al range of particles in the ink is from 10 to 300 nm and that those skilled in the art understand that there are always particles present in the ink outside of this range.

The Examiner agrees that there may be particles range side of this range. However the filterability of the ink is not automatically excluded because of these larger particles present in the composition. The composition of the invention comprises pigment particles, glycol ether, water and a water-dispersible polymer. Yu et al teaches pigment particles that are most preferred in the range of 50 nm to 100 nm (col. 4 lines 23-24) that is filtered through a more preferred filter of 1 to 2 micron nylon absolute filter (col. 4 lines 37-39). The preferred humectants include cellosolve and carbitol, which are glycol ethers (col. 15 lines 55-67). Yu et al also teaches that suitable additives include surfactant or polymer to further enhance the colloidal stability of the colored pigment particles (col. 15 lines 36-41). A reference is not limited to working examples. *In re Fracalossi* 215 USPQ 569 (CCPA 1982). It is the position of the Examiner that when the preferred components of the ink composition as taught by Yu et al are used that the claimed invention is anticipated, taught and suggested by Yu et al.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Veronica F. Faison

3-20-06

Conferees:

Patrick Ryan

Jerry Lorengo